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Letter dated 31 December 2012 from the Chair of the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa addressed to the President of the Security Council

I have the honour to transmit herewith the report of the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa for the period 2012, as endorsed by the members of the Working Group.

I would be grateful if the present letter and the attached report could be circulated as a document of the Security Council.

(*Signed*) Baso **Sangqu**
Chair of the Ad Hoc Working Group on
Conflict Prevention and Resolution in Africa

12-66874 (E) 080113

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Report on the activities of the Ad Hoc Working Group on Conflict Prevention and Resolution in Africa for the period January-December 2012

I. Introduction

1. The Ad Hoc Working Group on Conflict Prevention and Resolution in Africa is a subsidiary organ of the Security Council, established pursuant to presidential statement S/PRST/2002/2, in which the Council recognized the need for adequate measures to prevent and resolve conflicts in Africa and indicated its intention to consider the setting up of an Ad Hoc Working Group to monitor the recommendations contained in its presidential statement and to enhance coordination with the Economic and Social Council.

2. The Ambassador and Permanent Representative of South Africa to the United Nations, Baso Sangqu, was appointed as Chair of the Ad Hoc Working Group for the period ending 31 December 2012 (see S/2012/2). This present report reflects the activities of the Ad Hoc Working Group that were conducted in 2012.

II. Report on the programme of work of the Working Group in 2012

3. During the reporting period, the Working Group convened meetings to consider two thematic issues, namely, "Enhancing African Union-United Nations cooperation" and "Promotion of and respect for the rule of law and justice in the prevention and resolution of conflicts in Africa".

4. On 8 June 2012, the Working Group held a meeting on enhancing African Union-United Nations cooperation, and was briefed on that occasion by Ms. Louise Bailey, Senior Policy Officer, Permanent Observer Mission of the African Union to the United Nations; Mr. Sam Ibok, Director, Africa I Division, Department of Political Affairs of the United Nations Secretariat; and Mr. Youssef Mahmoud, Senior Adviser, International Peace Institute. The main aim of the meeting was to discuss ways in which commitments made by the Security Council in its resolution 2033 (2012) could be implemented and actualized. Further, the meeting examined how the African Union and United Nations could further strengthen their relations and cooperate in the prevention of conflict in Africa.

5. The panellists underscored the importance of taking advantage of early warning capacities, such as the Panel of the Wise, and pointed to the need to strengthen the already existing early warning mechanisms. In respect of enhancing the working relationship between the African Union Peace and Security Council and the United Nations Security Council, it was recommended that incoming Security Council members be briefed on the working methods of the African Union Peace and Security Council, in order to enhance the working relationship between the two Councils on issues dealing with conflict resolution and management. Furthermore, it was suggested that the two Councils establish a system for conflict analysis assessment and share warning analyses.

6. It was recalled that the high-level meeting of the Security Council, held on 12 January 2012, on cooperation between the United Nations and regional and subregional organizations in maintaining peace and security had been a concrete

expression of the political will of the Council to establish a more effective working relationship with those organizations. It was recommended that the relationship between the two Councils have the opportunity to benefit from more flexible interaction. Many speakers at the June meeting of the Working Group emphasized the progress that had been made in respect of the cooperation between the two Councils; however, it was also noted that the two bodies had fallen short in the political area, with some participants expressing the view that the challenge could be addressed through a better understanding of the concepts of subsidiarity and comparative advantage. During the meeting, it was stressed that communication and increased consultations were needed between the two Councils, as the African Union had become a strategic partner of the United Nations.

7. On 8 September 2012, the Working Group held a meeting on the promotion of and respect for the rule of law and justice in the prevention and resolution of conflicts in Africa. The panellists invited were Ambassador Paul Seger, Chair of the Burundi configuration of the Peacebuilding Commission and Permanent Representative of Switzerland to the United Nations; Professor Tiyanjana Maluwa, Associate Dean for International Affairs, Penn State Law Faculty; and Jose Alvarez, Professor of International Law, New York University. At this seminar, the relationship was discussed between the rule of law and conflict prevention, particularly within the Security Council. The discussion allowed for an exchange of views on the application of the rule of law. Practical insights were shared on the challenges regarding the implementation of the rule of law in Africa and how the rule of law applied to the efforts of the international community to resolve conflicts, with a focus on the role of the Council.

8. During the meeting, it was noted that the application of the rule of law at the national level and application at the international level were closely linked and that the countries that applied the rule of law at the national level usually also did so internationally. Some participants expressed the view that the rule of law was a necessary condition for peace, and that there should be no opposition between the two concepts, since there could be no rule of law without peace and vice versa. However, the example of Darfur was used to illustrate another view, namely, that the single-minded pursuit of justice did not necessarily bring peace. In this regard, some speakers recommended revisiting the sequencing of referrals to the International Criminal Court. Others emphasized the importance of enforcing arrest warrants and noted that the main flaw with respect to the referrals had been the lack of cooperation of States in accordance with Security Council resolutions.

9. The responsibility and ownership of the country concerned with respect to reinstating the rule of law were underscored, with some speakers stressing the need for the international community to support local efforts in that regard, including through the provision of political support. One speaker considered that it was imperative to understand that there are no one-size-fits-all solutions in establishing rule of law in different contexts, adding that the United Nations had to respect national ownership while providing guidance and encouragement.

10. There were views expressed at the meeting that the Security Council needed to adhere to international law and the Charter of the United Nations when resolving conflicts, and that concerted efforts were required to ensure the implementation of Council resolutions without discrimination.

11. Drawing from the experiences of Burundi, where a very strong civil society had promoted and fought for the rule of law, it was opined at the seminar that the rule of law could not be dissociated from social and political issues. It was noted that "bottom-up" pressure was generally conducive to establishing the rule of law, but that the presence of both bottom-up pressure and "top-down" pressure were even more desirable in this regard.

III. Conclusion

12. During the tenure of South Africa as Chair of the Working Group, the Chair had placed significant emphasis on making the meetings open to non-members of the Security Council as well as to civil society organizations, especially those active on the ground. The Chair had encouraged open and frank discussions in order to cultivate ideas that could positively contribute to enhancing the work of the Council, especially since its agenda is predominantly focused on issues concerning Africa.

13. The Chair would like to recommend that the Working Group continue to hold more open meetings of this nature. During his tenure, the Chair had utilized diverse expertise from academia, the United Nations Secretariat and other practitioners. This greatly enriched discussions by providing different types of expertise and experience. The Chair therefore encourages the continuation of this practice. Furthermore, the Chair encourages the periodic revisiting of some topics, in order to examine in greater depth those challenges that continue to persist in Africa, with a view to identifying mitigating mechanisms through continuous dialogue.

14. In addition, it should be recalled that, in paragraph 185 of its resolution 2033 (2012), the Security Council decided to follow up on the communiqués of the annual consultative meetings of the two Councils, including through its Ad Hoc Working Group on Conflict Prevention and Resolution in Africa. The Working Group should thus continue to exercise this important mandate entrusted to it by the Council.

15. Moving forward, the Chair notes that the various meetings have produced highly useful recommendations regarding the relationship of the Security Council with the African Union Peace and Security Council, as well as on enhancing the rule of law in post-conflict settings, which could enhance the work of the Council. In this connection, the Chair would like to propose that the Council hold an interactive discussion or retreat based on these recommendations in order to consider those recommendations that could possibly be incorporated into the work of the Council. It would be important to infuse the valuable outcomes of the Working Group discussions into the country-specific and substantive work of the Council.

16. The Chair would like to express his personal gratitude and that of the delegation of South Africa to the members of the Working Group for their collaboration and the support extended to him in the discharge of the mandate of the Working Group. The appreciation of the Chair is also extended to organizations and all individuals who greatly enriched the discussions of the Working Group.

17. Finally, I would like to thank the Secretariat for assisting us in fulfilling our mandate, in particular Mr. James Sutterlin, Ms. Marilyn Alfred and Mr. Oseloka Obaze, who had previously assisted us. The Chair wishes his successor all the best in continuing with the important work carried out by the Working Group.